

Dear Minister for Local Government
Office of Local Government

Submission — Discussion paper on a Local Government Electoral Bill

On 12 February 2025, the Electoral Commissioner received a letter from the Minister for Local Government informing him of the release of a discussion paper (the Paper) outlining the proposed reforms to be included in a Local Government Electoral Bill. The proposed Bill (the Bill) is expected to be introduced to the Parliament later this year.

The Paper was structured as three sections. The submission from Tasmanian Electoral Commission (the Commission) is grouped under these same sections and themes.

The Paper notes the engagement of the Office of the Commissioner (the TEC) with the Office of Local Government in scoping some of these reforms and future scenarios. Late in 2024 staff from the TEC, including the Electoral Commissioner, were involved in preliminary discussions regarding the future scenarios and the broad proposals now included in the Paper. The TECs involvement to date should not be considered as the Commission's endorsement of the reforms proposed.

The Commission thanks the Minister for providing the opportunity to make a formal submission. While the Commission does not make comment on policy issues, our submission provides information regarding the administrative consequences of the proposed reforms and where the reforms may impact the integrity of the elections.

The Commission welcomes the commitment in the Paper to engage closely with the TEC on technical aspects in the Bill throughout consultation and development.

Yours sincerely,



Mike Blake
Chair

30 April 2025



Allyson Warrington
Member



Andrew Hawkey
Electoral Commissioner

Summary of the submission

In summary the Commission:

- Does not agree with the assumption in the Paper that a form of online (internet) voting for local government elections will be available in the short or medium term.
- Welcomes the creation of a separate Local Government Electoral Act, however, believes that the timeframe to implement any significant legislative change in advance of statewide local government elections in September 2026 is extremely short. If the Bill is referred to the Joint Standing Committee on Electoral Matters, like other recent electoral legislation, the 2026 local government elections should be postponed at least 12 months.
- Notes that the administration of statewide “supplementary rolls” by the TEC will require additional resourcing which will need to be funded by councils.
- Is supportive of the creation of electoral legislation that removes barriers for some electors to currently participate and welcomes the opportunity to assist in the development of legislation that enables effective improvements to voting services.
- Is of the view that removing the ballot for deputy mayoral positions from the ordinary elections would reduce costs and complexities for electors and the TEC.
- Has a range of questions regarding how the administration of the proposed two-stage nomination process will work in practice.
- Has serious electoral integrity concerns regarding the reform to allow the Director of Local Government to provide a statement to be included in the election information booklet.
- Is of the view that the introduction of registered political parties as part of the nomination process and listing party or group endorsement within the information booklet are feasible.
- Is of the view that the introduction of columns and party/group names on the ballot paper is not manageable, particularly for larger councils or larger candidate fields. Consequences of this reform could include failed elections and a substantial blow out of costs.
- Notes that **Reform 23** (taken from Victoria) is not administered by the Victorian Electoral Commission and therefore proposes that it should be the Office of Local Government that will administer this reform.

The Commission submits the following comments in relation to the statements made and reforms proposed in the three sections of the Paper.

The future of local government elections

The Commission agrees with the view presented in the Paper that universal postal vote elections are not suitable for future ordinary local government elections. The Commission is supportive of the creation of separate local government elections legislation and is committed to providing information and advice on electoral issues to inform with the development of that legislation.

Internet voting in the future

The Commission does not agree with the statement in the Paper that: “At some point, electronic voting systems will be secure and valid, and most people will vote electronically”. The Commission is of the view that the only likely option for internet voting in Tasmanian elections would be through the creation of a national internet voting platform.

In December 2018, the Council of Australian Governments (COAG) agreed to the creation of the Inter-jurisdictional Working Group on Electoral Integrity and Security (IWGEIS). The working group brought together electoral commissions, first minister offices and government agencies from all jurisdictions, including national security agencies. The objective of the working group was to strengthen electoral systems, data and processes, including the consideration of a national electoral platform which could include a shared national internet voting system. At the conclusion of its work in November 2021, the working group did not produce any expected pathway or timeline for a national internet voting system.

While the New South Wales Electoral Commission has previously provided an internet voting service, this is no longer active, with no future date set for recommencing the service.

Two scenarios - Scenario A

The Commission is of the view that to transition to the conduct of elections as set out in Scenario A could not be achieved before the next ordinary local government elections commence in September 2026.

Also of note is that the cost of conducting ‘attendance ballot’ elections is expected to be significantly higher than the cost of a Tasmanian State election, as it has far greater complexities. For example, a State election consists of five ballots from five election rolls (derived from the State roll). State-wide ordinary local government elections consist of up to 87 ballots from 58 election rolls (derived from the State roll and 29 general managers rolls).

Two scenarios - Scenario B

The Commission is open to working with the Office of Local Government on the development of a 'hybrid model' for future elections but still has significant concerns about a timetable that suggests legislation will pass the Parliament and preparations completed before September 2026.

The period required to prepare for the proposed reforms is very difficult to determine until clearer direction is given on which reforms will progress to the Bill. For example, the transfer of the administration of the supplementary (general managers) roll is a complex process that would be best undertaken over a 9-to-12-month period.

Given the significance of the reforms proposed by the Paper, the Commission is of the view that it is highly likely the Bill would be referred to the Joint Standing Committee on Electoral Matters which may delay the passing of the Bill until early 2027.

It would then be an issue for the Government and the Parliament as to whether the 2026 ordinary local government elections are postponed or conducted under the current legislation.

Previous deferral of ordinary local government elections

Since the 1994 commencement of elections under the *Local Government Act 1993*, on three previous occasions, ordinary local government elections have been postponed:

- 1998: Commenced in July that year but were not completed as a result of a decision of the Supreme Court. The elections were then conducted in March 1999.
- 2004: deferred until September-October 2005.
- 2013: elections were held in September-October 2014 following the enactment on 20 June 2013 of the *Local Government Amendment (Elections) Act 2013* and the making of the *Local Government (Number of Councillors) Order 2013*, the *Local Government (Number of Councillors) Order 2014* and the *Local Government (Elections) Order 2013*.

Potential new directions

Who can vote at local government elections

The Paper raises questions around the entitlement of non-citizens to be enrolled on the supplementary roll and whether they are eligible to stand for election, which is primarily a matter of policy.

From an administrative perspective, the Commission agrees that it is not desirable for the TEC to review or verify the immigration status of electors or make determinations based on visa categories, which may change. The Commission will continue to engage with the Office of Local Government in relation to establishing processes consistent with possible legislation regarding the proposed changes to assessing eligible electors to be placed on the supplementary roll.

Remove the direct election of deputy mayor positions

The Paper raises the possibility that deputy mayoral positions be either abolished or elected 'around the table' consistent with the process currently undertaken when the deputy mayor position becomes vacant during the council term.

While this is primarily a matter of policy, from an administrative perspective, removing deputy mayor ballots at ordinary local government elections would reduce costs and complexity, especially if local government elections move to the Scenario A model.

Better public information

1. A more flexible and accessible format for local government elections

Reforms 1-4 propose providing the Commission with increased powers over future electoral processes, including approval powers like those recently provided under the *Electoral (Alternative Voting Procedures) Act 2024*. As a balance to the increased powers of the Commission, the paper proposes setting increased accessibility requirements on the TEC and new publishing responsibilities.

While the Commission is supportive of amending the legislation to better assist electors to participate, further discussions are required to ensure appropriate services can be provided. **Reform 3** is extremely broad, requiring the Commission to ensure “...all electors ... are to be afforded the opportunity to vote in an independent, secret and verifiable manner.” This may not be manageable or achievable and may come at significant cost, that councils will need to bare. For example, telephone voting is a voting service that provides greater accessibility but is certainly not as independent, secret or verifiable as voting at a polling place.

2. A better franchise for electors and changes to eligibility

Reforms 5-10 aim to make the electoral franchise more robust for future elections.

The nomination process

Reform 5 proposes changing the number of nominators required for standing as a candidate at local government elections to 30 nominators or 1 percent of the elector base (whichever is lower).

From an administrative perspective, on current enrolment numbers, 30 nominators would be required for contesting ballots for the following 25 councils:

Council	Enrolment	Council	Enrolment
Break O'Day	5 793	Huon Valley	14 173
Brighton	13 667	Kentish	5 135
Burnie City	15 121	Kingborough	28 622
Central Coast	17 798	Latrobe	9 771
Circular Head	5 691	Launceston City	49 469
Clarence City	44 693	Meander Valley	15 966
Derwent Valley	8 348	Nthn Midlands	10 719
Devonport City	19 829	Sorell	13 006
Dorset	5 537	Sthn Midlands	4 961
George Town	5 710	War - Wynyard	11 091
Glamorgan-Spring Bay	4 479	West Coast	3 061
Glenorchy City	33 508	West Tamar	19 034
Hobart City	38 547		

Less than 30 nominators will be required for contesting a ballot for the following 4 councils:

Council	Enrolment	Nominators
Central Highlands	2 499	24.99
Flinders	834	8.34
King Island	1 179	11.79
Tasman	2 705	27.05

For the larger councils, the number of nominators will increase fifteenfold, meaning a four-minute enrolment check for each nomination form becomes an hour process. Based on the nominations received in 2022, the process of checking nominator enrolment will increase from around 18 hours to 468 hours of work. This increase in workload is feasible however it may impact the set timeframes of the election and the costs incurred by councils.

Based on the 2022 ordinary elections, where more than half of the nominations were received in the final three days of the nomination period, there may need to be an extension to the timeframe between nominations closing and the announcement of candidates.

The Commission is seeking further details regarding the “two-stage” nomination process.

- Will there be two formal close of nomination times? (one for *notice of intention* and a second for the nomination form)
- Will the names of those who provide a *notice of intention* be made public?
- Can only those individuals who have submitted a *notice of intention* within the established time be able to nominate for the election?
- How early can someone submit a *notice of intention*?
- Do intending candidates, who are current councillors or who have previously been councillors, need to provide a *notice of intention* if they are not required to complete the candidate training?

Supplementary rolls

Reforms 6-8 proposes administration of the general managers rolls be transferred to the TEC and application of new eligibility criteria for elector enrolment under the newly termed “supplementary rolls”.

The Commission is supportive of the supplementary rolls being administered by the TEC, with better clarity provided under these reforms. The TEC would proactively manage these rolls throughout the electoral cycle to ensure rolls are up to date for any by-elections. The costs of the new processes will be directly invoiced to councils on an annual basis, including the verification processes for non-citizens on the supplementary rolls.

‘One person one vote’ principle

Reform 9 proposes the implementation of the ‘one person, one vote’ principle across the state roll and supplementary roll for each council.

From an administrative perspective, the Commission sees no issue with the administration of the one person, one vote principle as proposed in the Paper.

Pre-nomination training

Reform 10 proposes that all intending candidates, who are not incumbents, must complete a prescribed pre-nomination training program.

The Commission is assuming that it will have no role in the production and management of the training program and that candidates will be making a declaration on their nomination form that they have completed the training.

The Commission is of the view that in developing the relevant provisions, the following questions must be addressed:

- Would the *notice of intention*, which is a pre-requisite for undertaking the training, be maintained by the Office of Local Government as the first stage of applying to join the pre-nomination training program?
- Is the training a requirement for former (non-incumbent) councillors seeking to nominate?
- At the point of nomination, does the candidate need to provide evidence of the completed training or simply make a declaration?
- If evidence is required, will the training package be an online program that will track and report on the progress of each intending candidate that can then be provided to the TEC throughout the nomination period?
- Will there be an audit process after the election regarding the completion of the training program by all successful candidates?
- Will a candidate's councillor/mayor position become vacant if it is later proven that the individual did not complete the training prior to nominating?
- Does the training program need to be completed each time an unsuccessful candidate re-nominates?

3. Better quality public information at elections

Reforms 11-14 aim to improve understanding by electors of the candidate field and the introduction of a stronger role for registered political parties in local government elections.

Candidate statements

Reform 11 proposes that the legislation compel the TEC to provide candidates with the opportunity to provide a candidate statement and that it be published through appropriate means.

The TEC has provided candidates with the opportunity to publish a candidate statement since the commencement of the current legislation in 1993, with a very limited number of candidates not participating. Compelling the TEC to provide this candidate right seems unnecessary given the history of elections since 1994 and contrary to **reform 1** proposed in the Paper.

The Commission is of the view that, while the legislation may require the TEC to provide an opportunity for all candidates to provide a statement, the period for lodgement should still be aligned with the close of the nomination period, while the onus for the timely creation and lodgement of any statements would remain with each candidate.

Reform 12 proposes that the Director of Local Government may provide a statement to be published alongside the candidate statements. The Commission is most concerned about this reform as it is of the view that this reform can only be perceived as political influence within the voting process¹.

Under this reform, the Paper also states that the Commission will be provided the power to reject a Director statement where that statement would have an undue bearing on the consideration of candidates by electors in the Commission's view.

The Commission is strongly of the view that, any statement by the Director that draws the elector's attention to some history or action of the council or a candidate would itself be assessed as political interference and be rejected.

Introduction of registered political parties

Reforms 13 and 14 proposes the formal introduction of registered parties to local government elections. This introduction is threefold:

- Party controlled nominations
- Party endorsement in the information booklet
- Party grouping to be permitted on the ballot paper

¹ A national equivalent would be if the AEC were required to (provide with postal vote material) an evaluation of the current government produced by a senior government official.

The Paper also proposes that groups of candidates not endorsed by a registered party could nominate as a group with their own name.

While candidates are currently able to campaign under group names, party names, party values, policies and support, formal involvement of parties and their inclusion on the ballot paper will bring a new level of politicisation to the ballot. This new formal branding of candidates may be seen as inconsistent with the roles and responsibilities councillors and mayors hold. For example, if an elected mayor speaks, are they representing the views of the council or the political party that endorsed them?

The development of relevant provisions in relation to these reforms should address the following questions:

- Would the party endorsement process replace the need for 30 nominators proposed under **reform 5**?
- Would the party officer/agent be responsible for undertaking the process of establishing the notice of intention proposed under **reform 10**?
- What role would the party officer/agent play in ensuring the endorsed candidates complete the training proposed under **reform 10**?
- Would the party officer/agent be responsible for lodging candidate statements and photos?
- Would candidates still be listed in alphabetical order in the information booklet with a space for party or group endorsement, or would candidates be grouped by party / group name in the booklet?

While bulk party nominations would likely simplify the nominations process, it also creates the risk as seen in New South Wales (NSW) when the Liberal Party did not lodge any party nominations in time for the 2024 NSW local government elections. Like the circumstances in NSW, the TEC would have no responsibility for following up with the parties if there was a delay to lodgement of their nominations.

A practical example of these reforms - the 2022 Hobart City councillor ballot

The proposal to enable party endorsement to be included on the ballot paper or for candidates to be grouped in columns on the ballot paper creates major complexities and would lead to significant increases in costs for councils.

Where there are large fields of candidates the structure of the ballot paper is likely to be very complex. We would offer the 2022 Hobart City councillor election as an example of the complexity of these reforms.

For the 2022 Hobart City Council elections, each elector received three ballot papers: a councillor election (44 candidates), a combined mayor election (8 candidates) and deputy mayor election (10 candidates), and an elector poll.

The production of the councillor ballot paper consisted of all candidates listed in a single column of which there were 44 versions (or rotations under Robson rotation).

Based on the candidate statements provided, under the proposed reforms that ballot paper might include the following columns:

“Our Hobart”	Liberal party	“Positive new leadership”	Tas Greens	“Your Hobart Independents”	Independent (ungrouped)
6 candidates	1 candidate	2 candidates	5 candidates	7 candidates	23 candidates

A *reformed* version of the ballot paper would need to be 6 columns wide and require 4,830 rotations.

Alternatively, if the remaining 23 ‘independent’ candidates chose to be nominated as groups (say groups of 2) then the reformed version of the ballot paper would have been 16 columns wide, which would be too wide to show all columns in a single row.

The inclusion of registered parties on ballot papers could lead to each party endorsing five candidates so that electors can cast a formal vote within the party column, as we see for House of Assembly ballot papers. Under this scenario, the ballot paper may include more than 50 candidates.

The significantly larger ballot paper would more than likely triple the volume of ballot paper stock required which would increase material costs, slow production and folding and would likely mean standard envelopes could not be used, more than doubling the cost of material, insertion, and postal delivery and return.

Even if there is capacity to create the 4,830 rotations established under the regulations, the artwork configuration and proofing process workload for that ballot paper would increase from a few hours to a number of days. If we saw similar ballot paper configurations for some of the other larger councils, the ballot paper production period would need to be increased by two weeks.

The multi-column ballot paper would be more complicated to data enter, which would most likely more than double the time and cost of data entry, further delaying the election results.

The Commission is of the view that while the introduction of registered political parties as part of the nomination process and listing party or group endorsement within the information booklet are feasible, the introduction of party names and columns on the ballot paper are not manageable and would create a high risk that an election would fail. It would also result in a major blow out of costs and the election timeframe.

4. Strengthen disclosure and advertising requirements

Reforms 15-25 aim to enhance the management of political donations and electoral expenditure, to be better aligned with the requirements for Legislative Council political participants under the *Electoral Disclosure and Funding Act 2023* and with some recently amended electoral offences within the *Electoral Act 2004*.

Alignment with recent Parliamentary election offences

Reform 15 seeks to adopt the recently amended section 197 of the *Electoral Act 2004* relating to misleading and deceptive statements for local government elections. These amendments do not include what is colloquially termed “truth in political advertising”.

Reform 16 seeks to adopt the current proposed amendment of section 196 of the *Electoral Act 2004* (via *Electoral Amendment Bill 2024*) which removes the general restriction on using the name, photograph or likeness of a candidate without their consent during the election period, other than in how-to-vote material.

Reform 17 seeks to clarify and strengthen the definition of electoral advertising.

Reform 18 seeks to ensure that only a candidate and their agent can incur electoral expenditure, like the requirements for candidates at Legislative Council elections.

The Paper states that **reform 18** is a mechanism to address the possibility of broadly unregulated third-party campaigning of a negative character. The Bill will: “include authorisation requirements that attribute electoral advertising to the candidate for whom the benefit is intended, alongside continued limits on election expenditure.”

The Commission is unsure what this means or how it can be implemented. While it has been limited, negative advertising has occurred at Legislative Council elections, without breaching the legislation.

As a general principle, where there is a broad fields of candidates, there is difficulty in attributing the benefit of advertising when that advertising is simply negative towards a particular candidate such as “the mayor”.

Reform 19 seeks to align authorisation requirements with the recently amended changes to the *Electoral Act 2004* (via the *Electoral Matters (Miscellaneous Amendments) Act 2023*).

Reforms 20 and 21 align local government candidate election returns with the requirements for Legislative Council election returns.

While the Paper proposes to include party involvement in local government elections, similar to the restriction for Legislative Council elections, **Reform 22** will prohibit registered parties incurring expenditure for local government elections.

Other than the issue raised above regarding discussion of **reform 18**, the Commission is of the view that there are no major administrative issues with these reforms.

Disclosure of gifts and benefits

Reform 23 proposes a requirement for all intending candidates to lodge donation disclosures with the TEC across the full period from the previous ordinary election until the close of the poll. This is based on a similar provision in Victoria.

Reforms 24-25 proposes new offences in relation to accepting certain donations.

These reforms would create is a major administrative process which would require the TEC to be involved with councils throughout the council term in a way not previously undertaken.

In Victoria, from where the evidence in support of this reform is sourced, this disclosure process is not administered by the Victorian Electoral Commission. It is administered by the Chief Executive Officer of the relevant council and the Local Government Inspectorate. Therefore, for consistency with the Victorian model and current Tasmanian processes the administration of these reforms may better be the responsibility of general Managers and the Office of Local Government who deal with other regulation and review of councillor breaches and offences throughout the council term.

If the Bill is to require the TEC to administer new disclosure arrangements for intending candidates, careful consideration will need to be given in relation the alignment of these new requirements with the disclosure scheme established under the *Electoral Disclosure and Funding Act 2023*. This would involve the establishment and maintenance of candidate registers and receipting and disclosure processes for all individuals that receive a gift or benefit equal to or greater than \$50 in value.

Under these proposed arrangements, councils would be expected to cover the costs on an annual basis to administer these systems.

A consistency between the two schemes would be beneficial as many members of the Parliament were local government councillors immediately prior to taking up their seat (including three members in 2024) Where councillors intend to stand for the Parliament, these individuals will be required to be a participant in both schemes for certain periods.

5. Strengthen election integrity

Reforms 26-33 aim to strengthen the broader mechanisms of the local government electoral processes and the ongoing operation of councils during election periods.

Broader electoral provisions for the TEC

Reform 26 proposes that a local government election or by-election may not have an overlapping polling period with a Tasmanian or Federal parliamentary election. This would require the new legislation to provide the Commission with more flexibility regarding the delaying of stages of the election.

Reform 27 proposes strengthening the investigative powers of the Commission in line with its new powers under the *Electoral Act 2004*.

Reform 28 proposes aligning electoral offences and sanctions with the recent changes to the *Electoral Act 2004* (via the *Electoral Matters (Miscellaneous Amendments) Act 2023*).

The Commission is of the view that there are no major administrative issues with these reforms.

Council caretaker arrangements

Administration of proposed **Reforms 29-33** are not the responsibility of the Commission and therefore no comment on them is provided.